



P/4976-36

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

Marie-Claire GROSJEAN-COURNOYER et al.

Date: July 28, 2011

Serial No.: 10/587,801

Group Art Unit: 1616

Filed: July 31, 2006

Examiner: Pak, J. D.

For: FUNGICIDAL COMPOSITION COMPRISING A PYRIDYLETHYLBENZAMIDE
DERIVATIVE AND A COMPOUND CAPABLE OF INHIBITING THE
ERGOSTEROL BIOSYNTHESIS

TERMINAL DISCLAIMER

Mail Stop AF – NO FEE
Commissioner of Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

This terminal disclaimer is submitted under Rule 321(c) to obviate a non-statutory double-patenting rejection over patents. This document is filed in response to an Office Action of April 28, 2011, in reference to the above-identified patent application.

The Official Fee of \$140 for a terminal disclaimer for a large entity under 37 C.F.R. § 1.20(d) was previously paid on January 10, 2011. No additional fee is due.

The owner, BAYER CROPSOURCE AG, of 100 percent interest in the instant application disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term prior Patent Nos. 7,776,892 and 7,786,148 as the terms of said prior patents are defined in 35 U.S.C. §§ 154 and 173, and as the terms of said prior patents are presently shortened by any terminal disclaimer. The owner agrees that any patent so granted on the instant application shall

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be enforceable only for and during such period that it and the prior patents are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors, or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term, as defined in 35 U.S.C. §§ 154 and 173, of the prior patent, "as the term of said prior patent is presently shortened by any terminal disclaimer," in the event that said prior patents later:

- (1) expire for failure to pay a maintenance fee;
- (2) are held unenforceable;
- (3) are found invalid by a court of competent jurisdiction;
- (4) are statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. § 1.321;
- (5) have all claims canceled by a reexamination certificate;
- (6) are reissued; or
- (7) are in any manner terminated prior to the expiration of their full statutory terms as presently shortened by any terminal disclaimer.

This submission is on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.). The undersigned is empowered to act on behalf of the business/organization.

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I am authorized to sign on behalf of BAYER CROPSCIENCE AG. I am an in-house agent for BAYER CROPSCIENCE AG.

The assignment for the instant application is recorded on Reel 025161 at Frame 0521.

The assignment for U.S. Patent Number 7,776,892 is recorded on Reel 025161 at Frame 0521.

The assignment for U.S. Patent Number 7,786,148 is recorded on Reel 025161 at Frame 0521.

I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that any such willful false statement may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,



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